IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 13761 of 2004

Between:

K.S.Rao, S/o Late Narayan Rao,
R/o 6-70, Post: Srinagar,

Mandal:Varni, Nizamabad District

..... PETITIONER

AND

1 APSRTC, Musheerabad, Hyderabad,

rep.by its Managing Director
2 APSRTC, Nizamabad Region, Nizamabad,

rep.by its Regional Manager
3 APSRTC, Bus Depot, (NZB-II), Nizamabad. rep.by its Depot Manager

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ or direction particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not considering his case for alternative suitable employment from the date on which he was declared unfit for the post of driver as arbitrary, unjust and in violation of Art.14,16 & 21 of the Constitution of India and also in violation of Sec.47 of the Persons Disability (Equal opportunities, protection of rights and full participation) Act 1995 and consequential direct the respondents to provide alternative/suitable employment along with all consequential benefits in the interest of justice and fair play

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.K.HARINATH (SC FOR APSRTC)

The Court made the following:

ORDER:

The petitioner is working as a Driver in the respondents Corporation; during the course of service he developed colour blindness. Therefore, the respondent issued an office order dated 22-04-2004 informing the petitioner that he is unfit for Class-III, A1 category driver post due to colour blindness. Therefore, he was placed on leave with effect from 22-04-2004 as per Regulation 6-A(4) of A.P.S.R.T.C. Employees (service) Regulations, 1964, till the disposal of the case.

2. The petitioner apprehends that immediately after the exhausting the leave available to his credit he would be terminated from service. The petitioner's counsel represents that the petitioner also gave a legal notice through his counsel dated 29-06-2004 requesting the respondent to provide him alternative employment under Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short 'the Act') and the petitioner submits that the respondent No.2 did not pass any order on his representation. He further seeks a direction to the second respondent to consider his representation and to provide alternative employment under Section 47 of the above Act.

3. The learned counsel for the petitioner also relied on the judgment of a

Division Bench of this Court in **A.P.State Road Transport Corporation, Hyderabad and others Vs. M.V.Ramana Rao**[1] wherein the Division Bench observed that whenever there is a disability suffered by the employee during the course of employment, he shall be given an alternative job with the same pay and allowances, by virtue of the mandatory provision under Section 47 of the Act.

5. The learned counsel for the respondents submitted that the petitioner acquiring the colour blindness during the course of service cannot be considered as a disability, but there is not proper answer for the question as to why the petitioner was made unfit to continue to be Driver under the Corporation.

6. From the proceedings of the respondents it is clear that the disability being suffered by the petitioner comes within the definition of Clause I (ii) of Section 2 of the Act.

7. In the light of the above situation, the second respondent is directed to pass appropriate order on the representation of the petitioner dated 29-06-2004 by taking into consideration Section 47 of the Act, and the judgment of the Division Bench of this High Court as mentioned above, within three months from the date of receipt of a copy of this order.

8. The writ petition is accordingly disposed of. No order as to costs.

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05-08-2004

LSK

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Managing Director,

APSRTC, Musheerabad, Hyderabad,

2. The Regional Manager

APSRTC, Nizamabad Region, Nizamabad,

3. The District Managar,

APSRTC, Bus Depot, (NZB-II), Nizamabad.

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